

ASSEMBLY BILL

No. 1193

Introduced by Assembly Member Steinberg

February 23, 2001

An act to amend Section 790.03 of, and to add Section 676.10 to, the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 1193, as introduced, Steinberg. Insurers: hate crimes: cancellation or refusal to renew.

(1) Existing law provides for regulation of insurers by the Insurance Commissioner. Existing law imposes various limitations on insurers relative to cancellation or nonrenewal of policies protecting against certain residential, liability, and commercial risks.

This bill would provide that an insurer issuing policies protecting against certain residential, liability, and commercial risks may not cancel or refuse to renew a policy solely on the basis that one or more claims has been made against the policy for a loss that is the result of a hate crime committed against the person or property of an insured. This bill would require an insurer to report to the commissioner the cancellation or nonrenewal of a policy subject to these provisions after an insured has submitted a claim to the insurer that is the result of a hate crime, and would require the insurer to provide additional related information to the commissioner.

(2) Existing law provides that certain actions are defined as unfair methods of competition and unfair and deceptive acts or practices in the business of insurance, and specifies certain penalties and powers of the commissioner in this regard.

This bill would provide that a violation of the bill’s requirements would be subject to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 676.10 is added to the Insurance Code,
2 to read:

3 676.10. (a) This section applies to policies covered by
4 Section 675, 675.5, or 676.5.

5 (b) No insurer issuing policies subject to this section shall
6 cancel or refuse to renew the policy solely on the basis that one or
7 more claims has been made against the policy for a loss that is the
8 result of a hate crime committed against the person or property of
9 an insured.

10 (c) As used in this section, “hate crime” means any activity
11 defined in or punishable under Section 422.6 of the Penal Code.

12 (d) Upon cancellation of or refusal to renew a policy subject to
13 this section after an insured has submitted a claim to the insurer
14 that is the result of a hate crime committed against the person or
15 property of the insured, the insurer shall report the cancellation or
16 nonrenewal to the commissioner and shall provide the
17 commissioner with any related information required by the
18 commissioner pursuant to regulations adopted by the
19 commissioner.

20 (e) A violation of this section shall be an unfair practice subject
21 to Article 6.5 (commencing with Section 790) of Chapter 1 of
22 Division 2.

23 SEC. 2. Section 790.03 of the Insurance Code is amended to
24 read:

25 790.03. The following are hereby defined as unfair methods
26 of competition and unfair and deceptive acts or practices in the
27 business of insurance.

28 (a) Making, issuing, circulating, or causing to be made, issued
29 or circulated, any estimate, illustration, circular or statement
30 misrepresenting the terms of any policy issued or to be issued or
31 the benefits or advantages promised thereby or the dividends or
32 share of the surplus to be received thereon, or making any false or
33 misleading statement as to the dividends or share of surplus



1 previously paid on similar policies, or making any misleading
2 representation or any misrepresentation as to the financial
3 condition of any insurer, or as to the legal reserve system upon
4 which any life insurer operates, or using any name or title of any
5 policy or class of policies misrepresenting the true nature thereof,
6 or making any misrepresentation to any policyholder insured in
7 any company for the purpose of inducing or tending to induce such
8 policyholder to lapse, forfeit, or surrender his or her insurance.

9 (b) Making or disseminating or causing to be made or
10 disseminated before the public in this state, in any newspaper or
11 other publication, or any advertising device, or by public outcry or
12 proclamation, or in any other manner or means whatsoever, any
13 statement containing any assertion, representation or statement
14 with respect to the business of insurance or with respect to any
15 person in the conduct of his or her insurance business, which is
16 untrue, deceptive, or misleading, and which is known, or which by
17 the exercise of reasonable care should be known, to be untrue,
18 deceptive, or misleading.

19 (c) Entering into any agreement to commit, or by any concerted
20 action committing, any act of boycott, coercion or intimidation
21 resulting in or tending to result in unreasonable restraint of, or
22 monopoly in, the business of insurance.

23 (d) Filing with any supervisory or other public official, or
24 making, publishing, disseminating, circulating, or delivering to
25 any person, or placing before the public, or causing directly or
26 indirectly, to be made, published, disseminated, circulated,
27 delivered to any person, or placed before the public any false
28 statement of financial condition of an insurer with intent to
29 deceive.

30 (e) Making any false entry in any book, report, or statement of
31 any insurer with intent to deceive any agent or examiner lawfully
32 appointed to examine into its condition or into any of its affairs,
33 or any public official to whom the insurer is required by law to
34 report, or who has authority by law to examine into its condition
35 or into any of its affairs, or, with like intent, willfully omitting to
36 make a true entry of any material fact pertaining to the business of
37 the insurer in any book, report, or statement of the insurer.

38 (f) Making or permitting any unfair discrimination between
39 individuals of the same class and equal expectation of life in the
40 rates charged for any contract of life insurance or of life annuity



1 or in the dividends or other benefits payable thereon, or in any
2 other of the terms and conditions of the contract.

3 This subdivision shall be interpreted, for any contract of
4 ordinary life insurance or individual life annuity applied for and
5 issued on or after January 1, 1981, to require differentials based
6 upon the sex of the individual insured or annuitant in the rates or
7 dividends or benefits, or any combination thereof. This
8 requirement is satisfied if those differentials are substantially
9 supported by valid pertinent data segregated by sex, including, but
10 not necessarily limited to, mortality data segregated by sex.

11 However, for any contract of ordinary life insurance or
12 individual life annuity applied for and issued on or after January
13 1, 1981, but before the compliance date, in lieu of those
14 differentials based on data segregated by sex, rates, or dividends
15 or benefits, or any combination thereof, for ordinary life insurance
16 or individual life annuity on a female life may be calculated as
17 follows: (a) according to an age not less than three years nor more
18 than six years younger than the actual age of the female insured or
19 female annuitant, in the case of a contract of ordinary life
20 insurance with a face value greater than five thousand dollars
21 (\$5,000) or a contract of individual life annuity; and (b) according
22 to an age not more than six years younger than the actual age of the
23 female insured, in the case of a contract of ordinary life insurance
24 with a face value of five thousand dollars (\$5,000) or less.
25 “Compliance date” as used in this paragraph shall mean the date
26 or dates established as the operative date or dates by future
27 amendments to this code directing and authorizing life insurers to
28 use a mortality table containing mortality data segregated by sex
29 for the calculation of adjusted premiums and present values for
30 nonforfeiture benefits and valuation reserves as specified in
31 Sections 10163.5 and 10489.2 or successor sections.

32 Notwithstanding the provisions of this subdivision, sex based
33 differentials in rates or dividends or benefits, or any combination
34 thereof, shall not be required for (1) any contract of life insurance
35 or life annuity issued pursuant to arrangements which may be
36 considered terms, conditions, or privileges of employment as these
37 terms are used in Title VII of the Civil Rights Act of 1964 (Public
38 Law 88-352), as amended, and (2) tax sheltered annuities for
39 employees of public schools or of tax exempt organizations
40 described in Section 501(c)(3) of the Internal Revenue Code.



1 (g) Making or disseminating, or causing to be made or
2 disseminated, before the public in this state, in any newspaper or
3 other publication, or any other advertising device, or by public
4 outcry or proclamation, or in any other manner or means whatever,
5 whether directly or by implication, any statement that a named
6 insurer, or named insurers, are members of the California
7 Insurance Guarantee Association, or insured against insolvency as
8 defined in Section 119.5. This subdivision shall not be interpreted
9 to prohibit any activity of the California Insurance Guarantee
10 Association or the commissioner authorized, directly or by
11 implication, by Article 14.2 (commencing with Section 1063).

12 (h) Knowingly committing or performing with such frequency
13 as to indicate a general business practice any of the following
14 unfair claims settlement practices:

15 (1) Misrepresenting to claimants pertinent facts or insurance
16 policy provisions relating to any coverages at issue.

17 (2) Failing to acknowledge and act reasonably promptly upon
18 communications with respect to claims arising under insurance
19 policies.

20 (3) Failing to adopt and implement reasonable standards for the
21 prompt investigation and processing of claims arising under
22 insurance policies.

23 (4) Failing to affirm or deny coverage of claims within a
24 reasonable time after proof of loss requirements have been
25 completed and submitted by the insured.

26 (5) Not attempting in good faith to effectuate prompt, fair, and
27 equitable settlements of claims in which liability has become
28 reasonably clear.

29 (6) Compelling insureds to institute litigation to recover
30 amounts due under an insurance policy by offering substantially
31 less than the amounts ultimately recovered in actions brought by
32 the insureds, when the insureds have made claims for amounts
33 reasonably similar to the amounts ultimately recovered.

34 (7) Attempting to settle a claim by an insured for less than the
35 amount to which a reasonable man would have believed he was
36 entitled by reference to written or printed advertising material
37 accompanying or made part of an application.

38 (8) Attempting to settle claims on the basis of an application
39 which was altered without notice to, or knowledge or consent of,
40 the insured, his or her representative, agent, or broker.



- 1 (9) Failing, after payment of a claim, to inform insureds or
2 beneficiaries, upon request by them, of the coverage under which
3 payment has been made.
- 4 (10) Making known to insureds or claimants a practice of the
5 insurer of appealing from arbitration awards in favor of insureds
6 or claimants for the purpose of compelling them to accept
7 settlements or compromises less than the amount awarded in
8 arbitration.
- 9 (11) Delaying the investigation or payment of claims by
10 requiring an insured, claimant, or the physician of either, to submit
11 a preliminary claim report, and then requiring the subsequent
12 submission of formal proof of loss forms, both of which
13 submissions contain substantially the same information.
- 14 (12) Failing to settle claims promptly, where liability has
15 become apparent, under one portion of the insurance policy
16 coverage in order to influence settlements under other portions of
17 the insurance policy coverage.
- 18 (13) Failing to provide promptly a reasonable explanation of
19 the basis relied on in the insurance policy, in relation to the facts
20 or applicable law, for the denial of a claim or for the offer of a
21 compromise settlement.
- 22 (14) Directly advising a claimant not to obtain the services of
23 an attorney.
- 24 (15) Misleading a claimant as to the applicable statute of
25 limitations.
- 26 (16) Delaying the payment or provision of hospital, medical, or
27 surgical benefits for services provided with respect to acquired
28 immune deficiency syndrome or AIDS-related complex for more
29 than 60 days after the insurer has received a claim for those
30 benefits, where the delay in claim payment is for the purpose of
31 investigating whether the condition preexisted the coverage.
32 However, this 60-day period shall not include any time during
33 which the insurer is awaiting a response for relevant medical
34 information from a health care provider.
- 35 (i) *Canceling or refusing to renew a policy in violation of*
36 *Section 676.10.*

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